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Hearing on “Fair Credit Reporting Act:
How it Functions for Consumers and the Economy”

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TESTIMONY OF TIM SPAINHOUR

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Good afternoon Chairman Bachus, Ranking Member Sanders, and distinguished members of the Subcommittee.

My name is Tim Spainhour and I am the Legal Compliance Leader of Acxiom Corporation. I would like to thank you for holding this hearing and inviting Acxiom to participate. The reauthorization of the preemptive aspects of the Fair Credit Reporting Act (FCRA) is important to Acxiom's clients and, therefore, Acxiom, and is vital to the national credit reporting system consumers enjoy the benefits of today.

Although the scope of today's hearing is rather broad, I will limit my testimony to a single, discrete aspect of the activities covered by the FCRA in which Acxiom is involved. Specifically, I will address the role of the processor in the creation and use of prescreened consumer lists in credit and insurance solicitations.

The Role Acxiom Plays in Prescreening

For more than thirty years, Acxiom has been a *leader* in responsibly providing innovative *data management services* to leading companies in America. In a nutshell, Acxiom helps businesses—including those businesses that use prescreened lists for credit and insurance solicitations—recognize and engage customers who have the highest need for their product or service.

Simply put, in the context of prescreening, Acxiom's role is one of a data processor. We provide information products and services to our customers, and we build and maintain the computer systems that are the foundation of our client's customer management and marketing programs. Once we assist in creating these systems, our clients use the consumer data available to them to identify potential customers.

In the May 8 hearing before this subcommittee, testimony was presented which suggested that prescreening may increase competition among issuers of credit, thereby providing consumers with greater access to favorable credit rates and features. Although prescreening may offer such consumer benefits, not every consumer who meets or exceeds a credit issuer's minimum credit criteria for a firm offer of credit, will respond to such an offer.

Acxiom assists credit issuers in matching consumers with the offers they will find most interesting, and then assuring that those offers are delivered to the right address. Furthermore, many consumers have expressed an interest in not receiving such offers. In this regard, the FCRA requires that consumer reporting agencies, which prepare prescreened lists, also maintain an "opt-out" system whereby consumers can elect to be omitted from such lists.

Because consumers have the ability to opt out from inclusion in prescreened lists, and in light of the substantial costs associated with large-scale prescreened solicitations, our customers have a clear economic incentive to market only to those consumers who are most likely to respond to their offer, and to avoid marketing to those consumers who are not interested. That is where Acxiom's expertise comes into play.

The credit issuer first determines the credit criteria of the consumers to whom it will make a firm offer and communicates that criteria to a Consumer Reporting Agency. Once the list of consumers meeting the issuer's credit criteria has been determined by the Consumer Reporting Agency, a processor such as Acxiom will assist in further refining that field of potential customers to those who are more likely to want or need the product and are most likely to respond.

The process of refining the list of potential customers may entail the use of what we refer to as a partner file obtained by the issuer. Such a file could identify participants in a frequent

flier program, who will be offered a product that allows the accumulation of frequent flyer credits. Or, the issuer may wish to market to consumers who have demographic characteristics similar to those who have responded to offers of similar products in the past. A processor like Acxiom applies demographic data to the records and then processes the file to identify those consumers whose demographic characteristics are similar to past responders.

For example, golf has become a very popular sport. An issuer may offer a credit card with a golfing theme as the background on the actual card and utilize that theme on the envelope and letterhead used to communicate the offer. That offer would be targeted to those consumers who are likely to have an interest in golf or who live in areas near golf facilities. Acxiom helps the issuer get that offer to those consumers.

Acxiom also performs the services needed for postal certification in order to assure that each letter gets delivered to the most current, correct address and qualifies for available postal discounts. This includes processing the file for address standardization, carrier route pre-sorting and the application of the National Change Of Address (NCOA) file to make sure the issuer has the most current and accurate addresses. In other words, Acxiom utilizes all the tools at its disposal to assure that the right consumer gets the offer intended for him or her. This saves our clients money and lessens the amount of unwanted mail in consumers' mailboxes.

Consumer choice is important to the credit issuers and to Acxiom. Another service provided by the processor is to assist the issuer in honoring consumer preference. There are some consumers who don't want to receive prescreened offers. The issuer will provide the processor with a list of consumers who have elected to opt out with the issuer. Acxiom, as well as other processors who are members of the Direct Marketing Association (DMA), also applies the opt-out list (known as the Mail Preference Service) maintained by DMA to eliminate those

consumers from the file. Acxiom also offers consumers the ability to opt out with Acxiom and those preferences are also applied. The issuer may also want to eliminate those consumers who are already customers or who have received recent offers, and may provide those lists as well.

By narrowing the scope of prescreened offers to only those consumers most likely to welcome such offers, Acxiom's activities complement, and are consistent with, the intent and policies underlying the FCRA. We add value to the prescreening process by helping credit issuers place welcomed offers in the correct mailboxes. Without our expertise, consumers would receive unwelcome mail through less accurate targeting. Without this system, issuers would incur higher costs, which would be passed on to consumers.

I have described how the prescreening process is performed by responsible companies in a manner that not only addresses the business requirements of credit and insurance issuers, but also in a manner that respects the important policies underlying the FCRA. The FCRA's preemption of state laws governing prescreening, and the resulting national uniformity that exists with respect to prescreening issues, is a major factor in the successful implementation of our prescreening system.

If the existing preemption provisions are not renewed, the current orderly and effective prescreening process will likely become mired in a web of conflicting state and local laws. The prodigious costs that would result from the increased complexity and liability would, in Acxiom's opinion, create a substantial disincentive for responsible companies to participate in the prescreening process, thereby limiting consumer access to credit at favorable rates and terms, a highly undesirable result.